

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

ROBERTO ESQUIVEL CABRERA, #41078-018

PETITIONER

VERSUS

CIVIL ACTION NO. 5:08cv193-DCB-MTP
APPEAL NO. 08-60921

BRUCE PEARSON

RESPONDENT

ORDER

This cause comes before this Court on petitioner's response [18] filed December 9, 2008, to the order [17] entered on December 3, 2008. Having reviewed the petitioner's response [18], this Court finds that he did not provide the necessary information concerning the circumstances under which he received notice that the final judgment had been entered. According to the docket entries, a copy of the final judgment was mailed to the petitioner on August 19, 2008. In his response [18], the petitioner states he received the final judgment on September 23, 2008. However, the response [18] fails to provide any explanation of the reason for the delay of at least a month from the time the final judgment was mailed to him and when he received the final judgment. Accordingly, it is

ORDERED that the petitioner file within 20 days of the entry of this order a written declaration made under penalty of perjury as set forth in 287 U.S.C. § 1746 or file a notarized statement, either of which must provide the following information:

- (a) state if the petitioner was housed in segregation during the time of August 19, 2008, to September 23, 2008;
- (b) if the answer to "(a)" is "yes," state the dates the petitioner was housed in segregation; and
- (c) provide an explanation, if known, for the delay of at least a month from the time the final judgment was mailed to the petitioner on August 19, 2008, to

September 23, 2008, when the petitioner received the final judgment.

2. That petitioner is warned that failure to advise this court of a change of address or failure to comply with any order of this court will be deemed as a purposeful delay and contumacious act by petitioner and will result in the dismissal of petitioner's motion to reopen the time to file the notice of appeal.

SO ORDERED, this the 17th day of December, 2008.

s/ David Bramlette
UNITED STATES DISTRICT JUDGE